

25 MAR 2008



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LEVISOHN, BERGER, LLP
61 BROADWAY, 32ND FLOOR
NEW YORK NY 10022

In re Application of	:	
KEINHOFER et al.	:	
Application No.: 10/581,399	:	DECISION ON
PCT No.: PCT/EP2004/013702	:	
Int. Filing Date: 02 December 2004	:	PETITION UNDER
Priority Date: 03 December 2003	:	
Attorney Docket No.: 1549009	:	37 CFR 1.137(a)
For: METHOD FOR PRODUCING A TUBULAR	:	
DRIVE SHAFT, IN PARTICULAR A CARDAN	:	
SHAFT FOR A MOTOR VEHICLE	:	

This decision is in response to applicants' submission filed 12 October 2007, which includes a petition to revive under 37 CFR 1.137(b), in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 02 December 2004, applicant filed international application PCT/EP2004/013702 which designated the U.S. and claimed a priority date of 03 December 2003. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 16 June 2005. The thirty-month period for paying the basic national fee in the United States expired at midnight on 05 June 2006 (03 June 2006 being a Saturday).

On 01 June 2006, applicants filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, *inter alia*, the basic national fee.

On 09 February 2007, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventor in compliance with 37 CFR 1.497(a)-(b), a translation of the international application as filed into English, and the surcharge for providing the oath or declaration later than thirty months from the priority date were required. The NOTIFICATION set a two-month extendable period for reply.

On 03 July 2007, applicants filed a translation of the international application as filed into English, the surcharge under 37 CFR 1.492(h), and a declaration of the inventors.

On 20 August 2007, the DO/EO/US mailed a NOTIFICATION OF DEFECTIVE RESPONSE indicating, *inter alia*, that additional claim fees of \$325 were required. This NOTIFICATION set a time limit of ONE MONTH from the date of this Notification or within the time remaining in the response set forth in the NOTIFICATION OF MISSING REQUIREMENTS mailed 09 February 2007, whichever was longer. This Notification also noted that no extension of this time limit may be granted under 37 CFR 1.136, but that the period for response set in the NOTIFICATION OF MISSING REQUIREMENTS mailed 09 February 2007 may be extended under 37 CFR 1.136(a).

On 12 October 2007, applicants filed the instant submission which included, *inter alia*, a petition to revive under 37 CFR 1.137(b).

DISCUSSION

The NOTIFICATION OF DEFECTIVE RESPONSE mailed 20 August 2007 was in error. It indicated, *inter alia*, that additional claim fees of \$325 were required. However, no additional claim fees were required. Accordingly, the NOTIFICATION OF DEFECTIVE RESPONSE mailed 20 August 2007 is hereby VACATED. Thus, the application was not abandoned. Neither the petition fee nor the additional claim fees have been charged.

Declaration of Inventors

The declaration of inventors filed 03 July 2007 is in compliance with 37 CFR 1.497(a)-(b).

CONCLUSION

The petition under 37 CFR 1.137(b) is **DISMISSED** as **MOOT** for the reasons set forth above.

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application.

/Daniel Stemmer/

Daniel Stemmer
Legal Examiner
PCT Legal Affairs
Office of Patent Cooperation Treaty

Application No.: 10/581,399

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Legal Administration
Telephone: (571) 272-3301
Facsimile: (571) 273-0459